IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 15445 of 2005(L)

PETITIONER:

P.RUKIYA BAI, WIFE OF Y.ZAIN SAIT,
SANIA SHENOY ROAD, KOCHI-682 027.

BY ADV. SRI.JOBY CYRIAC
SRI.P.S.GEORGE

RESPONDENTS:

---

1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.

3. THE VILLAGE OFFICER,
VAZHAKKALA, KANAYANNUR TALUK, ERNAKULAM DISTRICT.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF ORDER OF ASSESSMENT DATED 17/01/1997.

P2 : COPY OF DEMAND NOTICE DATED 17/01/1997.

P3 : COPY OF JUDGMENT IN OP 5926/98 DATED 21/03/03.

P4 : COPY OF NOTICE DATED 20/12/2004.

P5 : COPY OF REPLY DATED NIL.

P6 : COPY OF ORDER DATED 02/03/2005.

P6(a) : COPY OF NOTICE IN FORM NO. 6 DATED 02/03/2005.

P7 : COPY OF MEMORANDUM OF APPEAL DATED NIL.

P8 : COPY OF APPELLATE ORDER DATED 28/04/2005.

P9 : COPY OF LETTER DATED 21/03/1998.

P10 : COPY OF NOTICE OF SECOND RESPONDENT DATED 10/05/2005.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 15445 of 2005

Dated, this the 18th day of September, 2007

J U D G M E N T

Petitioner is challenging Exts.P6 & P8 assessment and demand of building tax along with interest. This is the second writ petition filed by the petitioner in the same matter. In the first round this Court directed 2nd respondent to consider petitioner's claim for exemption of factory building. However, building was let out for commercial purposes and therefore, exemption is rightly declined. What remains is petitioner challenging against interest. Third respondent has wrongly relied on Section 3B of the Act, which is not applicable in this case. However, interest is payable for belated payment of tax @ applicable under Section 19(1) of the Kerala Building Tax Act. Moreover, interest will be payable for the complete period of default after first assessment and not from date of completion of construction as held by 2nd respondent in his order. This writ petition is accordingly allowed in part directing 2nd respondent to re-compute interest on the building tax @ prescribed under Section 19(1) of the Act from the date of default after service of first notice of demand along with assessment order and recover

the same, if not paid by petitioner. The amount paid will be adjusted and balance will be demanded from petitioner. The revised demand will substitute the impugned orders. Second respondent is directed to issue orders within one month from the date of production of a copy of this judgment by petitioner. Recovery should be kept in abeyance for one month from now.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg